

## **ARTICLE IX. ARCHITECTURAL REVIEW**

### **Sec. 21-851. Architectural preservation district AP.**

(a) *Statement of intent.* The architectural preservation district is established to preserve, protect, enhance and maintain the architectural excellence and historic importance of the Colonial Williamsburg historic area, and to recognize other areas of the city having historic, architectural and cultural significance. These regulations are intended to create an atmosphere for compatible future growth, to prevent the intrusion of adverse environmental influences, to ensure that new structures and uses will be in keeping with the character of the district, and to encourage a diversity of architectural style.

(b) *Boundaries.* The boundaries of the architectural preservation district are delineated as an overlay district on the official zoning map.

(Ord. No. 862, 10-10-91)

### **Sec. 21-852. Corridor protection district CP.**

(a) *Statement of intent.* The corridor protection district is established to protect and enhance the historic character of the Colonial Williamsburg historic area and the architectural preservation district by ensuring that the major access corridors to these areas are developed and maintained in a harmonious and compatible manner. This district is also intended to encourage the improvement of the architectural and visual character of these major corridors, and to encourage a diversity of architectural style that is compatible with the character of the architectural preservation district.

(b) *Boundaries.* The boundaries of the corridor protection district are delineated as an overlay district on the official zoning map.

(Ord. No. 862, 10-10-91)

### **Sec. 21-853. Architectural review board.**

(a) An architectural review board is hereby established, hereafter referred to as the review board. The review board shall consist of seven residents of the city, who shall be appointed by city council, and who shall have a demonstrated interest, competence or knowledge in historic preservation. One member shall be a licensed architect; one shall have a degree in architectural history or historic preservation; one shall be a member of the planning commission; and one shall have professional training or equivalent experience in any of the following disciplines: architecture, history, architectural history, archaeology, or planning. At least two of the members of the board, exclusive of the planning commission member, shall reside in or operate businesses in the architectural preservation or corridor protection district. It is recommended that one member have professional training or equivalent experience in any of the following disciplines: real estate, building construction, or engineering. Each member, other than the member of the planning commission, shall serve a term of four years, except that the original appointments shall be made for terms expiring on the following dates: December 31, 1994 (two members); December 31, 1995; December 31, 1996 (two members); and December 31, 1997. Each member may be reappointed but shall serve no more than two consecutive four-year terms. The term of the city planning commission member shall be coextensive with the term on the planning commission.

- (b) The review board shall elect from its own membership a chairperson and vice-chairperson, who shall serve annual terms and may succeed themselves. The secretary shall be a staff member of the planning commission designated by the planning director.
- (c) The chairperson shall conduct the meetings of the review board. The secretary shall keep the minutes of the meetings and a permanent record of all resolutions, motions, transactions and determinations. Each member of the review board shall be entitled to one vote on any question before the review board, and the decisions of the review board shall be determined by a majority vote of members present. A quorum of four voting members present is required before the review board may take any official action. The review board shall meet at least once a month, and the meeting shall be open to the public. The review board shall act on any matter properly before it not later than 60 days after the conclusion of the meeting at which the matter was first considered unless the time is extended with the consent of the applicant.
- (d) In case of disapproval of the erection, reconstruction, alteration or restoration of a building, structure, sign or exterior architectural feature, the review board shall state its reasons in writing, and may make recommendations to the applicant with respect to the appropriateness of design, arrangement, texture, material, color, location and the like.
- (e) In case of disapproval of the razing, demolition or moving of a building in the architectural preservation district, the review board shall state its reasons in writing.
- (f) The review board, when requested by an applicant in the architectural preservation or corridor protection districts, shall advise as to the changes and alterations necessary to bring the proposed building, structure, sign or exterior architectural feature in harmony with the general design of the buildings, structures or appurtenant elements located in the surrounding area.
- (g) In matters governing the procedure for meetings not covered by this article, the review board may establish its own rules, provided they are not contrary to this article.  
(Ord. No. 862, 10-10-91; Ord. No. 21-93, 7-8-93; Ord. No. 2-94, § 18, 1-13-94)

#### **Sec. 21-854. Approval required.**

- (a) No building, structure, sign or exterior architectural feature within the architectural preservation district AP or the corridor protection district CP shall be erected, reconstructed, altered or restored unless approval has been granted by the architectural review board. Interior features or alterations are not subject to review.
  - (1) For the purpose of this article, "exterior architectural feature" shall include, but shall not be limited to, walls, fences, and light fixtures and poles.
- (b) No building in the architectural preservation district shall be razed, demolished or moved in whole or in part unless approval has been granted by the architectural review board.  
(Ord. No. 862, 10-10-91)

#### **Sec. 21-855. Criteria for approval.**

- (a) Before approving the erection, reconstruction, alteration, restoration, razing, demolition or moving of a building or structure in the Colonial Williamsburg historic area portion of the architectural preservation district, the review board shall consider, among other things:

- (1) Documented historical and/or archaeological evidence of the existence of such building or structure prior to the year 1800.
  - (2) For accessory buildings and structures, historical and/or archaeological evidence indicating that such a building or structure could have existed prior to the year 1800, even though there exists no specific historical or archaeological evidence to support this.
  - (3) The historical value and significance of the building, structure, sign or exterior architectural feature and its relationship to the historic character of the Colonial Williamsburg historic area CW.
  - (4) The compatibility of the proposed building, structure, sign or exterior architectural feature with the comprehensive plan's goals for historic preservation, visual quality and design.
- (b) Before approving the erection, reconstruction, alteration or restoration of a building, structure, sign or exterior architectural feature in the architectural preservation or corridor protection district (except for the Colonial Williamsburg historic area CW), the review board shall consider, among other things:
- (1) The historical or architectural value and significance of the building, structure, sign or exterior architectural feature.
  - (2) The extent to which the building, structure, sign or exterior architectural feature will be architecturally compatible with historic buildings in the area in which it is proposed to be located; or, if located in the corridor protection district, will be architecturally compatible with the character of the architectural preservation district.
  - (3) The appropriateness of the general design, proportion, scale, building material, texture and color of the proposed building, structure, sign or exterior architectural feature to the area in which it is proposed to be located.
  - (4) The relationship of the proposal to design criteria adopted by the review board. Such criteria shall be consistent with the purposes of this article.
  - (5) The compatibility of the proposed building, structure, sign or exterior architectural feature with the comprehensive plan's goals for historic preservation, visual quality and design.
- (c) Before approving the razing, demolition or moving of a building or structure in the architectural preservation district (except for the Colonial Williamsburg historic area), the review board shall consider, among other things:
- (1) The historic and architectural value of the building or structure.
  - (2) The effect of the proposed razing, demolition or moving on the surrounding area.
  - (3) The impact of the proposed razing, demolition or moving on the comprehensive plan's goals for historic preservation.
  - (4) The condition of the building or structure.
  - (5) The economic feasibility of restoring the building or structure.
- (Ord. No. 862, 10-10-91)

**Sec. 21-856. Duration of approval.**

- (a) Approval by the review board of any erection, reconstruction, alteration, restoration, razing, demolition or moving of a building, structure, sign or exterior architectural feature (except when plans are reviewed in conjunction with a site plan submitted in accordance with Article VII) shall expire 12 months from the date of approval unless a building permit has been obtained for construction; or if a building permit has been issued, upon the expiration of the building permit.
- (b) When reviewed in conjunction with a site plan submitted in accordance with Article VII, approval by the review board of any erection, reconstruction, alteration, restoration, razing, demolition or moving of a building, structure, sign or exterior architectural feature shall expire five years from the date of the approval of the final site plan, unless a building permit has been obtained for construction; or, if a building permit has been issued, upon the expiration of the building permit.
- (c) The applicant may apply to the review board for reapproval in the event that the original approval has expired.
- (d) No action of the review board shall affect the approval period for a site plan, which is determined by section 21-777(3)c.  
(Ord. No. 862, 10-10-91; Ord. No. 15-99, 4-8-99)

**Sec. 21-857. Appeals.**

- (a) *Appeals from architectural review board to city council.*
  - (1) Any persons aggrieved by any decision of the architectural review board shall have the right to appeal the decision to the city council. An appeal shall be filed with the zoning administrator within 30 days after the final decision of the review board. The city council shall schedule a public hearing on the appeal not more than 45 days after the first council meeting following the receipt of the appeal.
  - (2) On any appeal, the final decision of the review board appealed from shall be stayed pending the outcome of the appeal before the council, except that the filing of such petition shall not stay the decision of the review board if such decision denies the right to raze, demolish or move a building in the architectural preservation district.
  - (3) The city council may affirm, reverse or modify the decision of the review board, in whole or in part. The same standards shall be applied by the council as are established for the review board.
- (b) *Appeals from city council to the circuit court.* Any persons aggrieved by the decision of the city council shall have the right to appeal such decision to the circuit court for a review. Such appeal shall be taken by filing a petition at law, setting forth the alleged illegality of the action of city council, provided such petition is filed within the 30 days after the final decision is rendered by the city council. The filing of the appeal shall stay the decision of the council pending the outcome of the appeal to circuit court, except that the filing of such petition shall not stay the decision of the city council if such decision denies the right to raze, demolish or move a building in the architectural preservation district. The court may reverse or modify the decision of the city council in whole or in part, if it finds upon review that the decision of the city council is contrary to

law or that its decision is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of the city council.  
(Ord. No. 862, 10-10-91)

**Sec. 21-858. Additional or concurrent right to demolish buildings in the architectural preservation district.**

(a) In addition to the right of appeal, the owner of a building or structure in the architectural preservation district, the razing or demolition of which is subject to the provisions of this article, shall, as a matter of right, be entitled to demolish such building or structure provided that:

- (1) The owner has applied to the city council for such right.
- (2) The owner has, for the period of time set forth in the time schedule in section 21-858(a)(3) and at a price reasonably related to its fair market value, made a bona fide offer to sell such building or structure and the land pertaining thereto to the city or to any person, firm, corporation or agency thereof or political subdivision or agency thereof which gives reasonable assurance that it is willing to preserve and restore the building or structure and the land pertaining thereto.
- (3) No bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such building or structure and the land pertaining thereto prior to the expiration of the applicable time period set forth in the time schedule below. Any appeal which may be taken to the court from the decision of the review board, whether instituted by the owner or by the other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from, shall not affect the right of the owner to make the bona fide offer to sell referred to in this paragraph. No offer to sell shall begin more than one year after the final decision of the review board, but thereafter the owner may renew his request to the review board to approve the razing or demolition of the building or structure. The time schedule for offers shall be as follows:

Property Valued At	Minimum Offer to Sell Period
Less than \$25,000.00	3 months
\$25,000.00--\$39,999.00	4 months
\$40,000.00--\$54,999.00	5 months
\$55,000.00--\$74,999.00	6 months
\$75,000.00--\$89,999.00	7 months

\$90,000.00 or more	12 months
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- (4) Before making a bona fide offer to sell, an owner shall first file a statement with the zoning administrator. The statement shall identify the property, and state the offering price, the date the offer of sale is to begin, and the name of the real estate agent, if any. No time period set forth in the schedule contained in section 21-858(a)(3) shall begin to run until the statement has been filed. Within five days of receipt of a statement, copies of the statement shall be delivered by the zoning administrator to the city manager, members of the city council and members of the review board.

(Ord. No. 862, 10-10-91)

#### **Sec. 21-859. Zoning exceptions.**

Due to peculiar conditions of design and construction in historic neighborhoods in the architectural preservation district, where buildings and structures are often close to the lot lines, it may be in the public interest to retain a neighborhood's historic appearance by granting exceptions to normal zoning requirements. Where it is deemed that such an exception will not adversely affect neighboring properties, and that it is necessary to retain and enhance the neighborhood's historic appearance and character, the review board may recommend to the board of zoning appeals that a special exception to the standard yard, transitional screening, height, landscaped open space and/or parking requirements be made, subject to the provisions of section 21-97(f); and/or may recommend to the planning commission that waivers be granted to site plan requirements, subject to the provisions of section 21-788.

(Ord. No. 862, 10-10-91)

#### **Sec. 21-860. Site plans.**

Due to the interrelationships between building design and site planning, the review board may make recommendations to the planning commission on site plans when a site plan is required to be prepared in conjunction with a proposal to erect, construct, alter or restore a building, structure, sign or exterior architectural feature. The review board's recommendation shall be advisory in nature, and shall not be binding upon the planning commission.

(Ord. No. 862, 10-10-91)

#### **Sec. 21-861. Permitted uses.**

Nothing in this article shall be construed to prevent the use of any land, building or structure permitted by the regulations of the zoning district in which such land, building or structure is located.

(Ord. No. 862, 10-10-91)

#### **Sec. 21-862. Exclusions.**

- (a) Nothing in this article shall be construed to prevent the ordinary maintenance or repair of any exterior elements of any building, structure, sign or exterior architectural feature described in this article. Ordinary repair and maintenance is work done to

prevent deterioration or to replace parts of a building, structure, sign or exterior architectural feature with equivalent materials in order to correct any deterioration, decay of or damage to any such building, structure, sign or exterior architectural feature.

(b) Nothing in this article shall be construed to prevent the construction, reconstruction, alteration or demolition of any such element which the authorized city officials shall certify as required by public safety.

(Ord. No. 862, 10-10-91)

**Sec. 21-863. Criteria for the expansion or establishment of additional architectural preservation districts.**

It shall be the continuing duty of the review board to investigate and delineate buildings, structures, places, and areas in the city having historic interest or value which should be preserved and protected to achieve the purposes and objectives of this article, and to report from time to time to the planning commission as to whether any of these should be set apart for preservation and protection under the provisions of this article. In establishing or expanding the boundaries of the existing architectural preservation districts, it must be determined that the property, structure or area meets at least one of the following criteria:

- (1) Possess character, interest, or value as part of the development, heritage, or cultural characteristics of the community, state, or country;
- (2) Is a site of significant local, state, or national event;
- (3) Is clearly identified with a person or persons who significantly contributed to the development of the community, state, or country;
- (4) Embodies the distinguishing characteristics of an architectural style valuable for the study of a period, type, method of construction, or use of indigenous materials;
- (5) Is identified as the work of a master builder, designer, architect, or landscape architect whose individual work has influenced the development of the community, state, or country;
- (6) Embodies elements of design, detailing, materials, or craftsmanship that render it architecturally significant;
- (7) Embodies design characteristics that make it structurally or architecturally significant;
- (8) Occupies a unique location or possesses singular characteristics that make it an established or familiar visual feature;
- (9) Provides for additional landscaping needed to control potentially adverse influences on lands closely related to and bearing upon the character of historic site or sites.

(Ord. No. 862, 10-10-91; Ord. No. 2-94, § 19, 1-13-94)

**Sec. 21-864. Previously approved planned unit developments.**

Planned unit developments approved prior to the adoption of this article, and which were approved with architectural design restrictions, shall be required to have the design of all buildings approved by the review board in accordance with the terms of the original approval of the planned unit development.

(Ord. No. 862, 10-10-91)

Secs. 21-865--21-890. Reserved.